File No. 66-30

Serial Nos. 1-2

Later References

Law 66-30-3 & 4

General and Revenue Secretariat.

Serial Nos. Civ.

Part R for Dec 1930

SUBJECT

Appeals against the order of acquittal in Cr. Ap. 40 [illegible] on the file of the Sessions Court Hammamatsu (Govt vs Hammamatsu Kaid) Ballapur

NOTES.

File No. 66-30

FILE HEADING.

Appeal against the order of acquittal in C.C. no 412/29-30 on the file of the Spl. I Mag^te Chickaballapur (Govt vs Hanumantha Rao)

FROM The Dist. Mag Kolar

No. J1.C. 356/30-31 Dated 7th nov 1930 Received

Diary No. 2244	Enclos.	Spare copies	Serial No.

BRIEF ABSTRACT OF LETTER.

forwards the opinion of the Govt Advocate together with the records Connected with C.C. 412/29-30 (Govt vs Hanumantha Rao and requests to obtain the sanction of the Govt under sec 417 of Cr. P.C for preferring an appeal against the order of acquittal under sec 245 Cr. P.C.

The accused was acquitted under sec 245 of the Cr.P.C. by the I class Magte Chickballapur. Dist Magte Kolar had called for the opinion of the Govt. Advocate in the case. To which he has replied that it is a fit case for preferring an appeal here from to the High Ct. under sec 417 Cr.P.C. A copy of the opinion of the Govt Advocate has also been received. The question as it seems to me is in the interpretation that is to be put given to Condition 7 of the H permit.

2) The Dist Magte states that the appeal time expires on 25.1.31.

For ~~orders~~ penal orders

TSD
14/1

3) The first question is whether the owners of a bus is liable to the penalty prescribed in sec 16 of the Motor Vehicles Regulation for permitting the bus to run in contravention of Condition 7 of the H. Permit —

under rule 27 which governs the 'G' permit. It is therefore doubtful if the failure to act according to a condition laid down in the H permit can be said to constitute an offence punishable under Sec 16 of the M.V. Regns.

5) Moreover Condition 7 of the H permit does not oblige the owner to carry the permit in the Vehicle - The Govt Advocate's argument that because the permit is issued in his name, it is his duty to carry the permit, is hardly convincing Clause 3 of the 'G' permit shows that though it is issued in the name of the owner, the duty of carrying the permit is that of the driver of the vehicle - The Dt maybe, Kolar however says that since Rule 27 H makes the owner also responsible for any breach of Condition 3 of the 'G' permit, the rule ought to apply to a similar Condition 7 of the H permit more so because the H permit is only subsidiary to the G permit - It is submitted argument cannot stand - It is a recognised canon of interpretation that penal statutes ought to be construed strictly and the benefit

new clause 27 H which makes the holders of permits also responsible. This provision in 27 H has been made however in relation specifically to the conditions of the G Permit, and unless it is expressly extended to cases of holders of H. Permits it would be difficult to make 27 H applicable to H Permits Having regard to the present vague phraseology of condition 7 in H. Permit it is difficult to forecast what view the appellate court may take in interpreting that condition in question

11) The other offence alleged against the accused is that there was no proper conductor in the Bus Having regard to the provisions in Rules 27 A & H the accused appears clearly guilty on the point and the judgment of the Magistrate appears erroneous. The District Magistrate recommends that an appeal should be filed.

Secy)

989
14/11

File No. of 193 | General and Revenue Secretariat

15) Dft S.o. Sanctioning the appeal is put up.
for approval

TSD 18/11

Typed draft please

MMC 18.11

16) Fair Dft put up.

TSD 18/11

May be approved

Legal R^r MMC 18/11

18/11

2. Member

17) ku adv put up.

18) Dft sent

21/11

OFFICE OF THE SECOND MEMBER OF COUNCIL
19 NOV. 1930
No. 4237.

A. V. RAMANATHAN, ESQ., B.A.,
District Magistrate,
Kolar District.

P. Mahadevayya, Esq., B.A., B.L.,
SECRETARY TO GOVERNMENT OF MYSORE,
L A W *Department,*
Bangalore.

SIR.

I have the honour to forward herewith records in C.C. 412/29-30 (Government VS Hanumantha Rao) on the file of the Special 1st Class Magistrate, Chickballapur, and to request that the sanction of the Government may kindly be obtained under Sec.417 Cr P.C. for preferring an appeal against the order of acquittal passed by the Magistrate under Sec. 245 Cr.P.C. in the same case as the order does not seem to be correct for reasons mentioned in my letter dated 21-10-30 to the Government Advocate (copy enclosed for reference). ~~The~~ A copy of his letter No. 281 dated 3rd November 1930 from the Government Advocate furnishing his views in the case ~~is~~ also forwarded for reference.

2. The favour of early orders of Government is requested as the appeal time expires on 25-1-1931.

I have the honour to be,

S i r,

Your most obedient Servant,

District Magistrate,
Kolar District

Read:-

Letter No. J. 1.C. 356/30-31 dated 7th November 1930 from the District Magistrate, Kolar, forwarding records and soliciting sanction for preferring an appeal under Sec. 417 Criminal Procedure Code, against the order of acquittal dated 25th July 1930 in C.C. 412/29-30 on the file of the Special First Class -- Magistrate, Chikballapur (Government Vs.Hanumantha Rao).

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Order No.P. 2977-8

Dated 26th November 1930.

Under Section 417 of the Code of Criminal Procedure the Government Advocate is requested to take steps in time to file an appeal ~~against the order of acquittal in the~~ before the High Court The District Magistrate, Kolar is requested to furnish the Government Advocate at once with a certified copy of the judgment of acquittal and other copies of evidence etc. as may be required by him for purposes of appeal.

8989

Secy. to Govt.Law Dept.

To

The Government Advocate,Bangalore.

The District Magistrate,Kolar with records.

R e a d--

Letter No.J.I.C.356/30-31 dated 7th November 1930 from the District Magistrate, Kolar, forwarding records and soliciting sanction for preferring an appeal under Section 417 Cr.P.C. against the order of acquittal dated 25th July 1930 in C.C.412/29-30 on the file of the Special First Class Magistrate, Chikballapur (Governme Vs. Hanumantha Rao.)

Order,No. P2977-8/Law 66.30.2

Dated, Bangalore the 26/4 November 1930.

Under Section 417 of the Code of Criminal Procedure the Government Advocate is requested to take steps in time to file an appeal before the High Court from the orders of acquittal in the above case. The District Magistrate, Kolar is requested to furnish the Government Advocate at once with a certified copy of the judgment of acquittal and other copies of evidence etc. as may be required by h him for purposes of appeal.

M Samenga

or Secretary to Government

Law Department.

TSD

FROM

M. RAMACHANDRA RAO, ESQ., B.A., B.L.,
GOVERNMENT ADVOCATE IN MYSORE,
BANGALORE.

To

The Secretary to the Government
of H. H. The Maharaja of Mysore,
Law Department, BANGALORE.

SIR,

I have the honor to acknowledge receipt of Government Order No. P.2977-8/Law. 66-30-2 dated the 26th November 1930, authorizing the filing of an appeal to the High Court against the order of acquittal passed by the Special First Class Magistrate, Chikballapur, in Criminal Case No. 412 of 1929-30 on his file (Government of Mysore VERSUS Hanumantha Rao) and to state that necessary action is being taken in the matter to file the appeal in time.

I have the honor to be,
Sir,
Your most obedient servant,

M. Ramachandra Rao

Government Advocate.